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ABSTRACT

Recent national studies show that nearly 2 million children have preventable learning "disabilities," and the number of students classified as learning disabled could be reduced by as much as 70 percent with rigorous early reading instruction. In predominantly white school districts, minority students are classified as learning disabled at significantly higher rates. This study focuses on race and special education in Arizona's public school districts, using data from the Arizona Department of Education and the U.S. Department of Education. Even after controlling for school spending, student poverty, community poverty, and other factors, results uncovered a pattern of predominantly white public school districts placing minority students into special education at significantly higher rates than white students. As a result, Arizona taxpayers spend nearly $50 million each year on unnecessary special education programs. The paper recommends that Arizonans forgo the current funding system, repudiated by Congress during the 1997 IDEA reauthorization and by 16 states. It also suggests that Arizonans implement a statewide voucher program enabling all disabled students to attend a public or private school of their parents' choice. (Contains 35 endnotes.) (SM)

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Race and Disability: Racial Bias in Arizona Special Education

by Matthew Ladner, Ph.D., Vice President of Policy and Communications, Children First America

EXECUTIVE SUMMARY

The federal Individuals with Disabilities Education Act (IDEA), designed to prevent the neglect and segregation of special education students, has resulted in the neglect and segregation of even larger student populations of minorities nationwide, including Arizona. The culprit: Perverse financial incentives to classify children as "learning disabled" when in fact they are "learning deficient," meaning they require remedial reading instruction, not special education programs.

Recent national studies show that nearly 2 million children have preventable learning "disabilities," and the number of students classified as learning disabled could be reduced by as much as 70 percent with rigorous early reading instruction. The sheer number of students mislabeled is staggering. Even worse, in predominantly White school districts minority students are classified as learning disabled at significantly higher rates.

This study focuses on race and special education in Arizona's public school districts, based on data from the Arizona Department of Education and the U.S. Department of Education. Even after controlling for school spending, student poverty, community poverty, and other factors, research uncovered a pattern of predominantly White public school districts placing minority students into special education at significantly higher rates. As a result, Arizona taxpayers spend nearly $50 million each year on unnecessary special education programs.

Arizonans must not wait for Washington to resolve the problem. With nearly 10 percent of Arizona's disability labels attributable to perverse financial incentives under the special education "bounty funding formula," we must forgo the current funding system, repudiated by Congress during the 1997 IDEA reauthorization and by 16 states. In addition, Arizonans should implement a statewide voucher program enabling all disabled students to attend a public or private school of their parents' choice. According to the Arizona Department of Education, 1,170 disabled students are already attending private schools at public expense. The success of Florida's revenue-neutral special education voucher program, the McKay Scholarship Program, demonstrates that when perverse financial incentives are replaced with school choice, the quality of education improves, benefiting all students.

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Race and Disability: Racial Bias in Arizona Special Education

by Matthew Ladner, VP of Policy and Communications, Children First America

Special and Unequal: Race and Special Education

A growing body of research shows that race plays a primary role in determining whether a public school labels a child disabled.

In 2003, Congress will reauthorize the Individuals with Disabilities Education Act, in the wake of harsh criticism from parents, teachers, and administrators over the current public special education system. While federal special education has largely ended many types of overt discrimination against disabled children, the system has drawn criticism from many sources.[1] Parents express enormous dissatisfaction with the quality of educational services their children receive, while teachers and administrators are increasingly frustrated by the system's bureaucratic inefficiencies and red tape. Even worse, a growing body of research shows that race plays a primary role in determining whether a public school labels a child disabled.

Commenting on the many failures of the special education system, Jay Mathews, an education columnist for the Washington Post, notes that he and other journalists "have done a terrible job telling this story. Special education systems are often too confusing, too bureaucratic and too bound by privacy rules to yield much useful information." The research that's available, he adds, "suggests that the special education system has led to widespread, if well-intentioned, misuse of tax dollars and has failed to help kids." [2]

In 1975, Congress passed the Education for All Handicapped Children Act, renamed in 1990 the Individuals with Disabilities Education Act (IDEA). Since 1975, the number of students in special education programs nationwide has grown 65 percent, to about 6.1 million in the 1999-2000 school year, which represents 8.2 percent of the U.S. student body. [3]

The largest growth in special education populations is among children classified as "learning disabled." Students with learning disabilities constituted only 21 percent of all disabilities when Congress passed the IDEA in 1975, but by 1998 that figure more than doubled, to 46 percent. Manhattan Institute scholar Jay P. Greene observes that while the number of clinically disabled students has remained nearly constant since 1976, the number of students classified as learning disabled tripled as of 1999.

Unlike many disabilities, learning disabilities involve subjective diagnoses, not objective medical diagnoses. And although learning disabilities are on average less expensive to treat than clinical disabilities (such as autism, blindness, deafness, and mental retardation), they garner additional funds that may exceed the marginal cost of providing such children with minimal services.[4] In fact, the Economic Policy Institute estimates public schools spend as much as *38 percent* of each new tax dollar on special education. [5]

Despite the massive investment of resources, many parents with children in public school special education programs express dissatisfaction with the level and types of services their children receive. The "compliance model" used by the special education system, which emphasizes procedure and forms over children's actual learning gains, is largely to blame. Critics of the system also note the compliance model has failed to ensure widespread compliance with special education laws, while generating a number of perverse outcomes. [6]

One such outcome is that a growing number of dissatisfied parents are bringing "private placement" lawsuits against public school districts. Nearly 2 percent of all special education students nationwide attend private schools paid for by public school districts that fail to provide an adequate education.[7] Unfortunately, only higher-income families can afford the attorney fees and other costs of private placement lawsuits so their children can attend private schools.

The overwhelming majority of special education children, therefore, remain in public school districts strained by legal expenses running into tens of thousands of dollars each year. According to some observers, the current special education system is a complex maze in which districts spend more time filing paperwork to avoid lawsuits than providing the services children need.[8] As a result, 98 percent of special education children and their families are trapped in an often inadequate and unresponsive public system.

Unfortunately, economically disadvantaged children are not the only ones who suffer under the current special education system. Education researchers have known for some time that minorities are overrepresented in a number of special education categories. For example, while African-American students account for only 16 percent of the U.S. student population, they represent nearly a third (32 percent) of all students in programs for mild mental retardation.

98 percent of special education children and their families are trapped in an often inadequate and unresponsive public system.

Even more alarming, recent research findings indicate minority students are much more likely to be labeled as mentally retarded if they attend school in affluent districts. According to a 2002 Harvard Civil Rights Project study, for instance, not only are there startlingly large racial disparities in special education overall, but African-American students are also three times more likely than White students to be labeled as mentally retarded.[9]

In May 2001, the Progressive Policy Institute and the Fordham Foundation issued a joint collection of studies on special education policy titled Rethinking Special Education for a New Century. As part of the collection, Dr. Christopher Hammons, assistant professor of political science at Houston Baptist University, and I statistically examined racial special education rates across districts and counties from several states, testing for the independent effects

of a number of variables - including student poverty, school spending, average class size, and racial makeup. [10]

We examined county data from California, Colorado, Florida, Georgia, Maryland, New York, Oregon, Texas, and Wisconsin, and district data from Florida, Maryland, and Texas. Given the information provided by the 2002 Harvard Civil Rights Project study, one would expect districts with predominantly minority students to have higher percentages of students in special education. While the race variable did play the largest role in determining special education rates, it did so in a wholly unexpected way.

Unfortunately, Arizona public schools mirror the national pattern of racial imbalance in special education rates.

Contrary to our expectations, districts with higher percentages of White students had significantly higher special education rates than districts with higher percentages of minority students, once we controlled for other factors. In fact, race played a substantially larger role in determining special education rates than any other factor, including student poverty. Even though minorities are substantially overrepresented in many special education categories in school districts overall, predominantly White districts showed much higher special education rates than predominantly non-White districts. Yet the White students were not necessarily the ones receiving disability labels.

Even after controlling for school spending, student poverty, community poverty, and other factors, the research revealed a common pattern of predominantly White public school districts placing minority students into special education at significantly higher rates. In some states, the average minority special education rates were twice as high in primarily White districts than in primarily minority districts.[11]

The findings turn upside down the conventional wisdom about the contributing causes of learning disabilities. Presumably, poverty and the attendants of poverty (such as poor prenatal care and poor nutrition) are the primary causes of many disabilities. Yet predominantly White districts are on average wealthier than predominantly non-White districts, which leaves race as the leading determining factor in labeling students as learning disabled. Unfortunately, Arizona public schools mirror the national pattern of racial imbalance in special education rates.

Why might minority children attending public schools in Arizona have a substantially greater chance of receiving a disability label based on the race of the students surrounding them? More important, what can be done about it? The sections that follow treat the motivations behind such disparate treatment and propose immediate legislative remedies.

Learning Disabled or Teaching Deficient? The Role of Early Education

Labeling children as disabled when in fact no disability exists does substantial harm to each mislabeled child. The erring district may seriously damage children's self-images and confidence in their own capabilities - perhaps permanently. During his 2001 testimony before the U.S. House Committee on Education and the Workforce, U.S. Secretary of Education Rod Paige underscored the long-term damage mislabeling inflicts on minority children:

> For minority students, misclassification or inappropriate placement in special education programs can have significant adverse consequences, particularly when these students are being removed from regular education settings and denied access to the core curriculum. Of particular concern is that, often, the more separate a program is from the general education setting, the more limited the curriculum and the greater the consequences to the student, particularly in terms of access to postsecondary education and employment opportunities. The stigma of being misclassified as mentally retarded or seriously emotionally disturbed, or as having a behavioral disorder, may also have serious consequences in terms of the student's self-perception and the perception of others, including family, peers, teachers, and future employers.[12]

Recent medical research into learning disabilities demonstrates a strong link between ineffective reading instruction and later learning disabilities. Analysis by a team of medical doctors, led by Dr. Reid Lyon of the National Institutes of Health, presented evidence that improper reading instruction has lead to an enormous increase in the number of students labeled as having specific learning disabilities.[13] The medical evidence strongly suggests that children who do not receive proper reading instruction in the early grades develop learning deficiencies, which are easily mistaken for learning disabilities.

Labeling children as disabled when in fact no disability exists does substantial harm to each mislabeled child.

Such "teaching disabled" children require extensive remediation to be brought to grade level in reading. Yet unlike children with a neurological disorder that later develops into a learning disability, teaching-disabled children have conditions that could have been prevented with proper reading instruction in the early grades. Lyon's medical team found that rigorous early reading instruction could reduce by 70 percent the number of students identified as learning disabled. Lyon and his coauthors estimate that, nationwide, nearly 2 million children have preventable learning disabilities.

National reading tests confirm that American public schools are failing at alarming rates to teach reading to elementary students. Of both low-income and African-American fourth graders tested, 60 percent scored "below basic" on the latest National Assessment

of Educational Progress examination.[14] National reading scores are abysmal, but the trends have been flat over the last 30 years. Meanwhile, learning disability labels have soared. However, there is no reason to assume (in the absence of further research) that predominantly White districts are substantially less successful at teaching basic literacy to minority children than are predominantly minority districts.

National reading scores are abysmal, but the trends have been flat over the last 30 years. Meanwhile, learning disability labels have soared.

According to Dr. Judith Heumann, assistant secretary of education in the Clinton administration, the public school system's failure to educate minorities and to stifle segregationist impulses leads to racially discriminatory outcomes in special education. Dr. Heumann herself was denied access to public schools as a child because she suffered from polio, and as assistant secretary of education she directly oversaw all federal special education law. Dr. Heumann, therefore, speaks on this issue with personal and professional authority, as during a PBS broadcast on special education in 1996[15]:

> Interviewer: Is the system as it stands now, racially discriminatory or not?
>
> Heumann: We know that minority children are more likely not to receive the kinds of services they need in the regular ed system and in the special ed system.
>
> Interviewer: You're saying yes.
>
> Heumann: Yes. And special ed is used as a place to move kids from a regular classroom out into a separate setting. And we're very concerned about that.
>
> Interviewer: You're saying yes.
>
> Heumann: Yes.

The Findings: Race and Special Education in Arizona

Data from the Arizona Department of Education and the U.S. Department of Education Common Core of Data make it possible to examine variation in racial special education rates across Arizona school districts. For inclusion in this data set, a district or charter school needed to have information available from both the federal and state data sources. In all, more than 100 Arizona school districts and charter schools reported the relevant data to the respective agencies.[16] The examination primarily involves traditional school districts, since few charter schools reported all the required information to both data sources.

The multiple regression technique allows testing for the effects of several independent variables on the dependent variable, racial special education rates by district. In the analysis, each school district has, for example, a percentage of Hispanic students classified as disabled (one of our dependent variables of interest). Each district also has independent variables, including

spending per pupil, percentage of low-income students (qualifying for the federal free/reduced lunch program), and percentage of White students. Based on the patterns observed in other states, two findings are expected:

- Higher-spending districts enroll more children in special education.
- Districts with higher percentages of economically disadvantaged children have higher special education rates.

Whether Arizona districts with higher percentages of White students have higher minority special education rates is the main subject of interest to this study. Regression analysis gauges the independent impact of each variable while statistically holding the other variables constant, essentially revealing to what degree (if at all) these factors influence special education rates across districts in Arizona.

Table 1 presents the results of three separate regression models to explain variation in public school disability rates among racial ethnic groups. African-American, Hispanic, and White disability rates each have separate statistical models. Both race and poverty have a statistically significant relationship to African-American and Hispanic disability rates.[17] The findings indicate that both poverty and the race of the student body in Arizona school districts play a systematic role in determining minority special education rates.

Both race and poverty have a statistically significant relationship to African-American and Hispanic disability rates.

Table 1: Determinants of Special Education Rates in Arizona Public Schools

	Model 1: African-American IEP rate	Model 2: Hispanic IEP rate	Model 3: White IEPrate
Spending per pupil	0.00003* (0.00001)	0.000003 (0.000002)	0.000003 (0.000003)
Percentage economically disadvantaged	0.273** (0.104)	0.111** (0.04)	0.066 (0.04)
Percentage of district students White	0.190* (0.096)	0.117***(0.033)	0.02 (0.033)
Constant	-0.195* (0.096)	-0.009 (0.036)	0.063 (0.037)
N	101	139	147
R-square	0.12	0.11	0.03

Note: Ordinary Least Squares regression; entries are unstandardized coefficients; standard errors are in parentheses. Data source: Arizona Department of Education; U.S. Department of Education. * $p < 0.05$ ** $p < 0.01$ *** $p < 0.001$
IEP: Individualized Education Plan

The disability rates for African-Americans and Whites are almost identical in heavily minority districts but diverge radically in predominantly White districts.

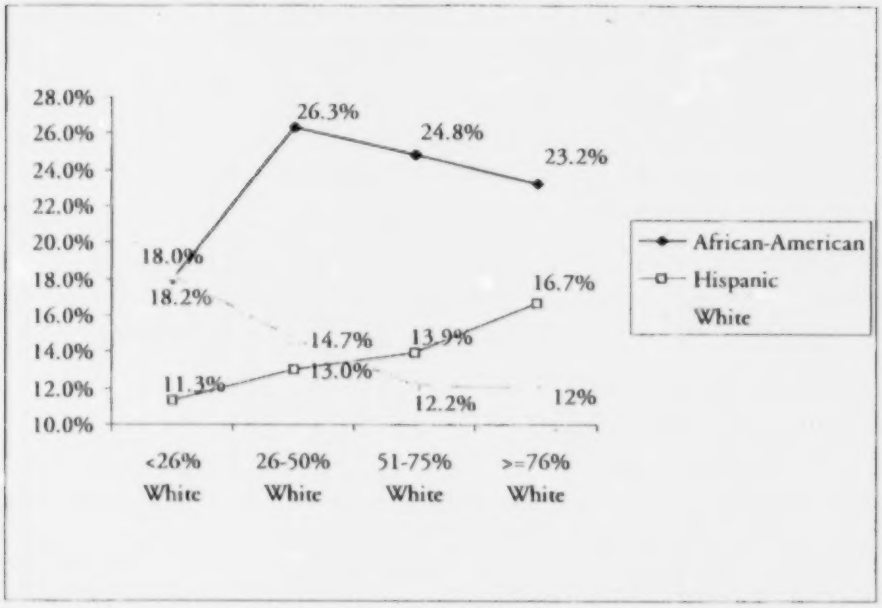
Race and poverty each play a significant role in determining disability rates for both African-American and Hispanic students in Arizona public schools. Poverty plays a larger role than race in determining African-American disability rates, but race plays the larger role in determining Hispanic disability rates. Both results are consistent with previous research.[18] Interestingly, neither race nor poverty plays a statistically significant role in determining White disability rates.

Figure 1 shows disability rates by ethnic group in Arizona public schools. The trends among White and minority students move in opposite directions. Bear in mind, the plot along the lines of Figure 1 does not demonstrate the independent impact of race and poverty levels in a way similar to the multiple regression technique. Nonetheless, the patterns are fascinating. Note that the disability rates for African-Americans and Whites are almost identical in heavily minority districts but diverge radically in predominantly White districts. African-American disability rates increase substantially, while White rates decline substantially. Hispanic disability rates also increase significantly according to the percentage of White students in the district.

Given that predominantly White districts have a smaller percentage of economically disadvantaged students, the poverty variable operates differently for Whites and minorities. Research has established that children living in poverty are more likely to develop disabilities, due to such factors as lower rates of prenatal care, nutritional deficiencies, or exposure to adverse environmental conditions.[19] Accordingly, all else being equal, one would expect to see a decline in the overall disability rates among wealthier suburban districts.

Likewise, one would expect to see a decline in the disability rates for minority students in predominantly White districts, where they are more likely to come from higher-income families than their peers in predominantly minority districts. Yet since disability rates among minority students in predominantly White districts increase, the reduction in poverty among minorities in predominantly White districts may actually understate the role of race in determining disability rates in those districts (as long as these students are from economically advantaged backgrounds when compared to their peers in predominantly minority districts).

Figure 1: Disability Rates by Ethnic Group in Arizona Public Schools

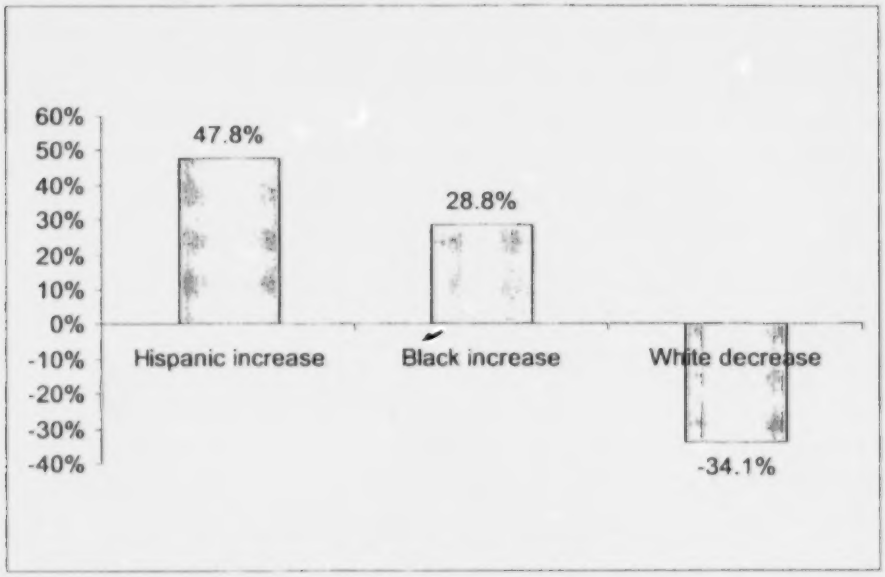


Predominantly White districts label 34 percent fewer White students as disabled.

Examining rates of change between predominantly minority districts (less than 26 percent White) and predominantly White districts (76+ percent White) gives a snapshot of differences among ethnic disability rates in Arizona schools.[20] Comparing rates of change also suggests how much greater is the chance that an African-American or Hispanic child will be classified as disabled in highly White compared to highly minority districts.

The answer is shown in Figure 2: predominantly White districts label substantially higher percentages of their minority students as disabled compared to predominantly minority districts. Disability rates for Hispanic students are 48 percent higher, and for African-American students are 29 percent higher, in White-dominated districts compared to minority-dominated districts. Meanwhile, predominantly White districts label 34 percent fewer White students as disabled.

Figure 2: Disability Rates by Ethnic Group in Arizona Public Schools



Districts with predominantly White teaching staffs have significantly higher minority special education rates.

While these results do not imply a direct causal relationship between the race of the student body and the disability rates of students, they do reveal a pattern in which predominantly White districts are more likely to label minority students as disabled than are predominantly non-White districts. Also, statistical analysis from states with readily available racial statistics for teachers found a pattern almost identical to the relationship between student body composition and ethnic disability rates. That is, districts with predominantly White teaching staffs have significantly higher minority special education rates.[21]

Teachers, after all, refer students into special education. As detailed by Ladner and Hammons, the race of students and the race of teachers and administrators strongly track each other. Predominantly White districts tend to have predominantly White teachers and administrators, while districts with larger percentages of minority students are much more likely to have minority staffs.

Financial Factors Influencing Disability Rates

We cannot empirically evaluate the conscious or unconscious use of special education as an internal segregation mechanism in predominantly White districts, although cultural misunderstandings between White teachers and minority students, along with discipline issues arising from ethnic differences between students and staff, are discussed extensively in previous research.[22] Measuring the precise role of racism in these placement patterns may be impossible, but it cannot be denied that minority students are treated differently than White students. Such disparate treatment cannot be dismissed, and the incentives behind it must not be ignored.

A growing body of research indicates that financial incentives play a pernicious role in special education rates. For example, in their most recent study on the subject, Manhattan Institute scholars Jay P. Greene and Greg Forster interviewed state officials who referred to the special education funding system used in Arizona and most other states as the "bounty system."[23] Under the bounty system, state governments compensate school districts for each student classified as disabled.

The economics of special education are complex, and school districts claim that many disability types are net drains on their finances even after the districts receive compensation. Nevertheless, as Greene demonstrates elsewhere, only the number of students classified as learning disabled has increased since 1976, not the types of disabilities that typically warrant extensive resources.[24]

During the 1997 reauthorization of the IDEA, Congress ended federal bounty funding and now distributes federal funds to the states in a lump sum based on a demographic profile, not on the number of children identified as disabled. In ending the federal bounty system, Congress attempted to remove the financial incentive for districts to label children as disabled in order to qualify for increased funding. Sixteen states have since switched their own funding mechanisms for districts to a similar formulaic "lump sum" method to remove perverse financial motivation. Unfortunately, Arizona is not one of those states.

A growing body of research indicates that financial incentives play a pernicious role in special education rates.

Greene and Forster theorize that the bounty system provides a perverse financial incentive for schools to label more students as disabled. By comparing the rates of growth in special education enrollment in states with and without the bounty funding system, they attribute 62 percent of the increase in special education during the 1990s in states with the bounty system to this financial incentive.

Greene and Forster estimate that nearly 10 percent of Arizona's disability labels are attributable to the bounty system (8,433 out of 87,298), at an annual additional expense of $49,907,136 for special education services.[25] Nationwide, these figures

translate into roughly 390,000 extra students placed in special education because of the bounty system, resulting in additional total spending of more than $2.3 billion per year.[16]

Comparisons among the rates of growth for specific learning disability categories offer even more compelling evidence that financial incentives shape disability rates. Greene and Forster conclude:

> While we would like to think that something as important as placing a student into special education would be immune to financial considerations, the hard reality is that incentives alter people's behavior. If it is financially advantageous to move students into special education, school systems will seek to influence the rate at which students are diagnosed. And it is no coincidence that the overwhelming majority of the growth in special education has taken place in the "specific learning disability" category, which is both among the most subjective disabilities to diagnose and the cheapest to serve. If it were true that there really are more disabled children because of changes in the environment or medical technology, then we would expect increases in all sorts of disabilities. In fact, enrollments for disabilities that are more objective to diagnose and more expensive to treat have been either declining or essentially flat for 25 years.

Greene and Forster estimate that nearly 10 percent of Arizona's disability labels are attributable to the bounty system.

Greene and Forster's research challenges readers to consider the disability process at the margin as something that might provide outside funds for something the district already plans to do. For example, if a school wishes to fund extra tutoring for a group of students who are behind in their reading skills, the district must find money for such a program out of its own budget. If those same students receive learning disability labels, the state would provide funds for individualized instruction.

At least one state education chief has discussed this situation candidly and on the record. In a 1995 interview for the Sunday Star-Ledger, then New Jersey education commissioner Leo Klagholz admitted, "We spend the money every year, but we have no way of knowing whether the money we spend actually goes to the education of disabled children." Klagholz concluded: "I'm not sure that school officials actually sit around and say they can increase state aid by increasing the number of classified children. But the incentive is there and, sometimes, close calls can be justified on the grounds of the good they are doing by increasing a district's resources."[17]

The incentives to overly label children as disabled are especially strong with minority children in predominantly White school districts. The financial incentive would seem to be more acute in poorer, predominantly minority districts, but the evidence indicates it is *wealthier,*

predominantly White districts that engage in special education bounty seeking. Why?

The possible answers have serious policy implications for Arizona. District special education programs may need to reach a certain size and sophistication before realizing the financial benefits of aggressive labeling (thus recovering fixed costs) - a grave concern for Arizonans currently considering school district unification and consolidation. Exacerbating the financial incentives or segregationist impulses in predominantly White districts to mislabel a disproportionate number of minority children are the strict student testing timeframes and standards mandated by the new federal No Child Left Behind law. Once they are classified as learning disabled, minority students may be exempted from taking the standard accountability examinations. Facing severe state budget constraints and added performance pressures from the No Child Left Behind law, Arizona public schools may be even more tempted by financial incentives to mislabel potentially poor-performing minority students.

Precisely why predominantly White districts label minority students at such significantly higher rates is a complex sociological question, which may be impossible to answer definitively. Certain, however, is that the current bounty funding system for special education in Arizona sponsors and promotes a deeply biased system in urgent need of reform.

Special Education Vouchers: A Cure for Perverse Incentives

Although we tend to view special education primarily as a federal issue, 16 states have changed their own bounty funding systems for special education to ensure that districts have no financial incentive to aggressively label children.[28] Based on the strong evidence of racial bias presented above, Arizona should follow the lead of those 16 states as soon as possible.

The evidence indicates it is wealthier, predominantly White districts that engage in special education bounty seeking.

Changing the funding formula, however, is only a partial step in the right direction. The link between inadequate general education (especially reading instruction) and learning disabilities detailed by Lyon cries out for substantial improvement in the overall quality of general education instruction.

Results of the 1998 National Assessment of Educational Progress reading examination show three groups scoring "below basic":

- 67 percent of Arizona fourth graders who were eligible for the federal free or reduced lunch program.
- 70 percent of Arizona's African-American fourth graders in public schools.
- 68 percent of Hispanic fourth graders in public schools.[29]

Children who cannot read at an early age often fall further behind grade level each year they remain in school, until ultimately many drop out before

graduating. Why early literacy is such a colossal failure in the public system is a topic too large for this paper, but the current structure does nothing to prevent it. Insofar as the current publicly financed system fails to teach basic literacy to many low-income children, they are likely to develop the very learning deficiencies characteristic of students who ultimately drop out of school.

Public school districts suffer few adverse consequences for failing to provide quality early education.

In fact, Arizona's funding structure may make matters worse. Rather than deliver the desperately needed improvements to their early general education and reading programs out of their own budgets, districts face immense financial incentives to classify learning deficient students as disabled before they drop out. Further, the bounty system misallocates an estimated $50 million each year of precious state resources to unnecessary special education programs.

Public school districts suffer few adverse consequences for failing to provide quality early education. A powerful realignment of incentives to redress the problems of such a deeply troubled system is required, and Florida has taken the lead by making all disabled students in the state eligible for a voucher that allows them to attend a public or private school of their parents' choice. Known as the McKay Scholarship Program, this law has proven to be very popular with special education parents while reducing the incentive to misidentify children as having disabilities.

Unlike school districts in any other state, Florida districts have a financial incentive to prevent learning deficiencies through improved early education, because children are free to take their school funds to another public or private school through the McKay Scholarship Program. Launched in 1999, the program allows parents who are dissatisfied with the quality of their children's education to seek other public and private options without having to resort to court action.[30] The program equalizes opportunity for students of varying economic backgrounds, not just those whose parents can afford the cost of litigation.

More than 9,000 students enrolled in the McKay program for the 2002 school year. Of 547 private schools that applied to accept McKay Scholarship children, 214 are nonreligious and 332 are religious schools.[31] The disability profiles of students exercising choice through the program closely match the population of disabled students in the Florida public school system, meaning that private schools are serving children with a full spectrum of disabilities.

Under the McKay Scholarship Program, school districts are accountable ultimately to parents, not to central authorities. Moreover, parents participating in the McKay program do not lose their right to sue school districts for failing to provide an adequate education, but now they may change schools instead of resorting to a lawsuit. Therefore, lower-income parents may exercise the sort of leverage and discretion previously

available only to parents with attorneys on retainer. In addition, since schools must excel to attract and compete for students, all of Florida's schoolchildren, not just special education students, are the direct beneficiaries of a revitalized education system.

Another benefit of the McKay Scholarship Program is the savings it generates for all Florida taxpayers. The McKay Scholarship limits payments to the amount of money and fees it would have cost to educate a child in his original school, or the cost of tuition at a private school to which the child transfers, whichever is less. When children enroll in schools with tuition and fee costs lower than the public spending figure, the transfers generate savings.

To date, the McKay Scholarship Program has been revenue-neutral for Florida.[32] A similarly constructed program would be revenue-neutral in any state, because funding simply follows the transferring child from one school to another. Savings to districts may occur when students take scholarships rather than sue the district for failure to provide a free and appropriate public education.

Best of all, the McKay Scholarship Program removes the perverse bounty funding incentives to label children as disabled. While school districts in other states, such as Arizona, may be tempted to mislabel children for financial gain or to avoid standardized testing, the McKay program creates a risk to such behavior. Specifically, a school district risks losing students and their state education dollars long before a test is ever administered. Florida districts motivated by gaining marginal revenue through special education now expose themselves to a counterbalancing risk of losing all state money associated with students.

School Districts Limit Choice for Arizona's Disabled Children

The McKay Scholarship Program removes the perverse bounty funding incentives to label children as disabled.

In 1994, Arizona passed a law allowing students to transfer between public school districts. The law requires each district to have an "open enrollment" policy, drawn up on a district-by-district basis. By law, Arizona school districts are required to accept all resident students, followed by all nonresident students who wish to transfer in from other districts. Such transfers are contingent on current student capacity within the school of choice, program availability, and fulfillment of student racial quotas mandated by federal desegregation orders. Under this system, districts control the supply of seats for transferring students, as well as the terms under which a transfer may take place.[33]

With regard to special education students, Arizona districts occasionally send children to private schools at public expense, under two provisions of the federal IDEA legislation:

- A public school Individualized Education Plan committee may reach a consensual agreement that the child's needs cannot be met within district schools, in which case the district pays the cost of a private placement for the child.
- Parents may sue districts for failure to provide a free and appropriate public education, which may result in a student's receiving a private education at public expense.

Arizona has been a national leader in promoting parental education. Unfortunately, its leadership does not extend to the students who need it most.

According to the Arizona Department of Education, 1,170 Individualized Education Plan students were attending private schools at public expense as of December 1, 2001. [34]

Based on figures from the National Center for Education Statistics, during the fall of 2000, the average state's student population was 924,699, while Arizona's student population was 856,984. The national average of disabled students attending private schools at public expense is 2,471,[35] meaning that the number in Arizona should be 2,289. With only 1,170 disabled students attending private schools at public expense, Arizona falls well below that number.

Again, Arizona school districts, not parents, have the final say over which students to let go. Private school placement, therefore, is accessible only if a district agrees to it or if parents can afford to hire an attorney and successfully sue a district. Florida's McKay Scholarship Program, however, removes power from the service provider (the school districts) and restores it to the service consumer (the parents). Districts must provide the quality of service expected by parents, or parents can seek satisfaction elsewhere.

Neither Arizona's open enrollment law nor its special education regulations afford parents their rightful authority over their children's education. The choices of parents, not the caprice of districts, should determine the supply of school spaces for disabled children. Arizona has been a national leader in promoting parental choice in education. Unfortunately, its leadership does not extend to the students who need it most.

Conclusion: Strong Action Is Required to Fix Special Education in Arizona

While the number of clinically disabled students nationwide has remained nearly constant since 1976, the number of students classified as learning disabled tripled as of 1999. Worse, a disproportionate number of these students are minorities.

Ironically, the very law intended to end the segregation and neglect of special education students, the Individuals with Disabilities Education Act, has resulted in the segregation and neglect of Hispanic and African-American students. Turning upside down the conventional wisdom about the contributing causes of learning disabilities, this study shows that race, not poverty, is the primary determining

factor behind learning disability labels.

Even after controlling for school spending, student poverty, community poverty, and other factors, this study finds a common pattern of predominantly White public school districts in Arizona placing minority students into special education at significantly higher rates. Disability rates for Hispanic students are 48 percent higher in predominantly White districts compared to predominantly minority districts, and 29 percent higher for African-American students. Meanwhile, predominantly White districts label 34 percent fewer White students as disabled.

Perhaps Congress will pass useful reforms during the 2003 reauthorization of the Individuals with Disabilities Education Act. Arizona, however, cannot wait for Washington to act while Hispanic and African-American children are significantly more likely to be classified as learning disabled in predominantly White Arizona public schools. Mislabeling students costs Arizona an estimated $50 million each year, but the cost to each mislabeled child is incalculable.

While the Arizona legislature cannot rewrite federal special education law, powerful tools exist to combat the perverse financial incentives to mislabel minority children. One such tool would build upon existing Arizona policy, which currently enables 1,170 special education students to attend private schools at public expense, by implementing a voucher system like Florida's McKay Scholarship Program. Such a program would immediately help more than 8,000 students whose disability labels are attributable to the presence of the bounty system in Arizona. It would also restore authority over their children's education to the parents of Arizona's 87,298 disabled students.

A voucher system like Florida's McKay Scholarship Program would immediately help more than 8,000 students whose disability levels are attributable to the bounty system.

The McKay Scholarship Program has proven to be at least revenue-neutral and could even save Arizona money. Best of all, it would replace perverse financial incentives with expanded parental control, lessening racial discrimination and improving the quality of education for all students.

NOTES

[1] In 1973, it was estimated that as many as 1 million students nationwide were denied access to public schools solely due to a disability. Hearings before the Select Subcommittee on Education of the Committee on Education and Labor, 93d Cong., 1st sess., 1973. Cited in Wade F. Horn and Douglas Tynan, "Time to Make Special Education 'Special' Again," in Rethinking Special Education for a New Century, ed. Chester E. Finn Jr., Andrew J. Rotherham, and Charles R. Hokanson Jr. (Washington, D.C.: Thomas B. Fordham Foundation, 2001), p. 23, www.edexcellence.net.

[2] Jay Mathews, "When Special Education Falls Short," Washington Post, December 11, 2001.

[3] Horn and Tynan, p. 27.

[4] For a discussion of the economic and environmental factors behind disability rates, see Jay P. Greene, "The Myth of the Special Education Burden," Education Week, June 12, 2002, www.edweek.org/ew/newstory.cfm?slug=40greene.h21.

[5] Richard Rothstein and Karen Hawley Miles, Where Has the Money Gone? Changes in the Level and Composition of Education Spending (Washington, D.C.: Economic Policy Institute, 1995).

[6] Patrick J. Wolf and Bryan C. Hassel, "Effectiveness and Accountability (Part 1): The Compliance Model," in Rethinking Special Education for a New Century.

[7] Daniel McGroarty, "The Little-Known Case of America's Largest School Choice Program," in Rethinking Special Education for a New Century.

[8] Marie Gryphon and David Salisbury, "Escaping IDEA: Freeing Parents, Teachers and Students through Deregulation and Choice," Cato Institute, 2002, www.cato.org/pubs/pas/pa444.pdf.

[9] Daniel J. Losen and Gary Orfield, eds., Racial Inequity in Special Education (Cambridge: Harvard University Press, 2002), introduction, http://gseweb.harvard.edu/%7Ehepg/introduction.html.

[10] Matthew Ladner and Christopher Hammons, "Special but Unequal: Race and Special Education," in Rethinking Special Education for a New Century.

[11] For example, Florida data from the 1995-96 school year show the Hispanic disability rate twice as high in districts whose student population was 76 percent or more White (15.3 percent) compared to the Hispanic disability rate in districts less that 26 percent White (7.7 percent).

[12] Rodrick Paige, Testimony before House Committee on Education and

the Workforce, October 4, 2001, http://edworkforce.house.gov/hearings/107th/fc/idea10401/wl10401.htm.

[13] G. Reid Lyon et al., "Rethinking Learning Disabilities," in Rethinking Special Education for a New Century.

[14] U.S. Department of Education, "The Nation's Report Card: Fourth Grade Reading 2000," p. 40, http://nces.ed.gov/pubsearch/pubsinfo.asp?pubid=2001499.

[15] PBS interview, "What's So Special about Special Education?" Merrow Report, May 10, 1996, transcript at www.pbs.org/merrow/tv/transcripts/spec_ed.pdf.

[16] Many school districts and charter schools were eliminated from the analysis simply due to lack of African-American, White, or Hispanic students and/or special education students. Regarding White disability rates, it was possible to examine 147 school districts and charter schools, but for Hispanic rates the number dropped to 139 education entities, and for African-American rates to 101 entities.

[17] The term "statistically significant" means a relationship strong enough that it is very unlikely to occur by chance. The standard minimal threshold for significance is the 0.05 level, that is, only a 1 in 20 chance that the relationship occurred by chance.

[18] Ladner and Hammons.

[19] See U.S. Department of Education, "Factors Associated with the Provision of Special Education to Students in Inner Cities," 1996, www.ed.gov/pubs/OSEP96AnlRpt/chap4b.html.

[20] For statistical purposes, the percentage identifying minority public school districts was rounded up to 26 percent and the percentage identifying White public school districts was rounded up to 76 percent, to include districts that were between 0.1and 0.9 point above the 25 and 75 percent markers. Hence the sum of 102 percent.

[21] Ladner and Hammons, p. 104.

[22] Ladner and Hammons.

[23] Jay Greene and Greg Forster, "Effects of Funding Incentives on Special Education Enrollment," Manhattan Institute for Policy Research, 2002, www.manhattaninstitute.org.

[24] Greene, "The Myth of the Special Education Burden."

[25] Interview with Greg Forster regarding state-by-state calculations (unpublished table), February 7, 2003.

[26] Greene and Forster.

[27] Interview in New Jersey Sunday Star-Ledger, March 19, 1995. Cited in Horn and Tynan, p. 49.

[28] Alabama, Alaska, Arkansas, California, Connecticut, Idaho, Maryland, Massachusetts, Missouri, Montana, North Dakota, Pennsylvania, Rhode Island, South Dakota, Utah, and Virginia now operate under the "lump sum" funding formula. All other states still use the traditional funding system. Source: Greene and Forster, Table 1, www.manhattan-institute.org/html/cr_32_table_1.htm.

[29] National Assessment of Educational Progress, "NAEP 1998 Reading: State Report for Arizona," 1998, p. 36, http://nces.ed.gov/nationsreportcard/pdf/stt1998/99460AZ.pdf.

[30] The text of the McKay Scholarship legislation is at www.miedresearchoffice.org/mckaystatute.htm.

[31] One of the schools was designated as "unknown."

[32] For additional information on the McKay program, see Manhattan Institute Education Research Office, www.miedresearchoffice.org/mckayscholarship.htm#_Schools_taking_scholarships.

[33] Arizona Department of Education, "Open Enrollment," www.azleg.state.az.us/issues/senate/open%20enrollment.pdf.

[34] E-mail from Arizona Department of Education official Nicole Armstrong in response to data request, February 13, 2003.

[35] Calculations based on numbers from Education Week reporter Jonathan Fox. According to Fox, public school districts are paying private school tuition for approximately 2 percent of the nation's 5.6 million special-needs students, or about 126,000 children. Cited in McGroarty, p. 291.

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